

### **REMARKS**

This is a full and timely response to the outstanding non-final Office Action mailed 04/05/2006. Consideration and allowance of the application and presently pending claims as amended, is respectfully requested.

#### **1. Present Status of Patent Application**

Upon entry of the amendments in this response, the following amended and new claims will be pending:

**Original claims: 1, 10 and 11**

**Amended claims: 1, 10 and 11**

**Cancelled claims: 4, 5, 6 and 9**

**New claims: none**

Claims 4, 5, 6 and 9 are cancelled herein. Claims 2, 3, 7 and 8 have previously been cancelled. Claims 1, 10 and 11 remain and have been amended herein. The amendments are specifically described hereinafter. It is believed that the foregoing amendments add no new matter to the present application and place the claims in condition for allowance.

#### **2. Rejection of claims 1, 4-6, 9-11 under 35 U.S.C. §112**

Claims 1, 4-6, 9-11 have been rejected as failing to comply with the written description requirement. The office action specifically cites the functionality recited in the most recent amendment to the claims, and the pop-up screen which is configured to be retractable into the main body, as not being described in the original disclosure of the invention.

Applicant respectfully disagrees with the assessment of the office action, and asserts that these claims as do in fact meet all requirements of **35 U.S.C. §112**. However, in the interest of advancing prosecution of the present invention, amendments to the claims have been made herein to distinguish the present invention over the prior

art and clarify features and aspects thereof. It is believed that the remaining claims, as amended herein, meet all requirements of **35 U.S.C. §112** and are allowable over the prior art.

**3. Rejection of claims 4, 9 and 10 under 35 U.S.C. §103**

Claims 1, **4-6 and 9 - 11** have been rejected as being unpatentable over Tsai (USP 6582235) in view of Ochi (USP 5315911), and further in view of Akimoto et al.

Applicants will note that claims **4, 5, 6 and 9** have now been cancelled from the present application. Claims 1, 10 and 11 now remain in the present application.

The office action acknowledges that Tsai does not teach the displaying of lyrics contained in the memory unit in a predetermined synchronization with actuation of the keyboard. However, the office action asserts that *Ochi discloses a music score display device which comprises the displaying of lyrics contained in the memory unit in a predetermined synchronization with actuation of the keyboard (Fig. 3)*. It is then stated that it would have been obvious to one of ordinary skill in the art to adapt the teachings of Tsai et al with those of Ochi, “so as to allow for automatic display of the lyrics with the playing of an instrument by a singer”.

Applicant disagrees with the assertions of the office action and respectfully submits that the office action herein does not establish a case of prima facie obviousness with regard to claims 1, **4-6 and 9 - 11**. Applicant notes that Tsai is directed to a method and apparatus for displaying music piece data such as lyrics and chord data, while Ochi is directed to a music score display device. Tsai states that it is an object to provide “an improved music-piece-data display controlling method and apparatus which displays lyrics or chord progression on a predetermined display screen in an easy-two-read fashion” and “a music-piece-data display controlling method and apparatus which allows a user to readily perform a musical instrument manually to progression of an automatic performance of a music piece by displaying individual performance timing for playing the musical instrument and tone pitches to be performed on the musical instrument in accordance with a performance progression of a music piece” (see column 2, lines 23 – 33). Ochi discloses that it is an object of the invention

to provide a music score display device that is capable of displaying always correct music score according to the actual playing.

Applicants note that the office action does not provide any details on how the devices of Tsai and Ochi could/would be combined/modified without impairing or otherwise destroying the functionality of each separate device function. Even if such modification/combination could arguably be successfully made, the mere fact that the prior art can be modified so as to (arguably) result in the combination defined by the claims at issue does not make the modification obvious unless the prior art suggests the desirability of such modification. Applicants assert that the prior art simply does not provide any motivation to modify or combine the teachings of Tsai and Ochi in as an effort to provide the features and advantages offered by the present claimed invention.

A review of the specification of Ochi, at column 11, line 15 - 35 reveals that the device of Ochi is concerned with tone pitch data. It is explained, in connection with discussion of Fig. 3, that "[e]ach of the chord component tone pitches is also sent to a comparison/evaluation section 108 for comparison and evaluation with tone pitch data manually input from a keyboard 111. Octave control section 107 determines, in accordance with an available pitch range of the keyboard 111, whether or not the pitch to be shown on the performance-assisting display section should be shifted by an octave or octaves (octave-shifted). Then, the octave control section 107 supplies the cord name data processing section 104 and chord-name-to-pitch conversion section 106 with octave shift data indicating whether the octave shift is to be made or not." Here, as elsewhere in Ochi, there is simply no disclosure or suggestion of anything having to do with the display of lyrics in connection with actuation of a keyboard as specified and required by claims 1, 4-6 and 9 – 11. Further, there is no suggestion or disclosure of how Ochi and Tsai could/should be combined/modified to arrive at the device specified and claimed by claims 1, 4-6 and 9 – 11. There is simply no indication, teaching or suggestion of, among other things, *a display unit configured to display predetermined lyrics based upon data contained in a memory unit, at a predetermined time relative to actuation of a keyboard.*

The office action further acknowledges that proposed combination/modification of Tsai and Ochi fails to disclose a pop-up display, microphone, and recorder. It then asserts that "*Akimoto et al discloses an electronic instrument which comprises a pop-up display and microphone (see especially. Figs 1, 5, 10, 18, 19 pop-screen 80), and recorder (Col. 6, lines 46-56)*" and that "*it would have been obvious to adapt the Tsai/Ochi combination with those of Akimoto et al , as to make the device more portable and conducive to use with a singer, and to allow the singer to record and evaluate the performance at a later date.*"

The addition of Akimoto et al to the proposed combination of Tsai and Ochi does nothing to overcome the deficiencies of this proposed combination noted above. Each and every claim limitation must be considered in evaluating a claim in face of the prior art. In the case of dependent claims this requires that each and every limitation of the independent claim and any intervening claims, from which they depend also be considered.

The proposed combination of Tsai, Ochi and Akimoto simply fails to disclose, teach or otherwise suggest a musical instrument that meets each and every limitation specified and required by the claims herein. In short, the references cited by the Office Action herein do not suggest or otherwise teach the desirability of the present claimed invention, nor do they suggest or teach a musical instrument that provides, among other things, *a display unit configured to display predetermined lyrics based upon data contained in a memory unit, at a predetermined time relative to actuation of a keyboard.* There is simply no motivation, teaching or other suggestion of the claimed invention found anywhere in the prior art.

It is completely improper to use the present claimed invention as a guide through the maze of prior art references in order to combine references in just the right way so as to achieve the results of the claims at issue. The present invention has been used as a road map for attempting to purporting modification/combination of Tsai and Ochi to somehow achieve a device that purportedly would include attributes of the present claimed invention.

In addition, applicants would note that the sheer volume of references that the office action has now tried to bring together to support the rejection of these claims

under 35 U.S.C. §103 speaks volumes about just how unobvious such a combination/modification really is. It is respectfully submitted that the proposed combination/modification of Tsai, Ochi and Akimoto is simply not suggested or taught by the prior art. Further, it is submitted that any such proposed combination/modification would require at least undue experimentation on the part of one skilled in the art and would ultimately result in the destruction of the functionality of the devices described by Tsai, Ochi and/or Akimoto. Reconsideration of these claims in view of the amendments herein is now requested.


#### 4. **Amended Claims**

Claims 1, 10 and 11 have been amended to specify, among other things, a pop-up display unit configured to display lyrics contained in the memory unit in a predetermined synchronization with actuation of the keyboard; a microphone for receiving vocal input; and a recorder for recording vocal input.

In the interests of advancing prosecution of the present application, claims 1, 10 and 11 have been amended. Each of these claims have amended amended to specify, among other things, a pop-up display unit configured to display lyrics contained in the memory unit in a predetermined synchronization with actuation of the keyboard; a microphone for receiving vocal input; and a recorder for recording vocal input. Reconsideration and allowance of claims 1, 10 and 11 as amended herein, is requested.

**5. Conclusion**

In light of the foregoing amendments and for at least the reasons set forth above, Applicants respectfully submit that all objections and/or rejections have been traversed, rendered moot, and/or accommodated, and that the now pending claims 1, **10 and 11**, are in condition for allowance. Favorable re-consideration and allowance of the present application and all pending claims are hereby courteously requested. If, in the opinion of the Examiner, a telephonic conference would expedite the examination of this matter, the Examiner is invited to call the undersigned attorney at (678) 352-0103.

<p align="center"><b>Certificate of Mailing</b></p> <p>I hereby certify that this correspondence, and attachments, if any, is being deposited with the United States Postal Service by First Class Mail, postage prepaid, in an envelope addressed to Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450* on the date below.</p> <p><b>DATE: September, 2, 2006</b></p> <p></p> <p>Robert P. Biddle (Reg# 35, 826) 6300 Powers Ferry Road Suite 600-183 Atlanta, GA 30339</p> <p>TEL: 678-352-0103 FAX: 404-795-0870</p>
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Respectfully submitted,

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